



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Docket No. TSCA-08-2003-0005

In the Matter of:

Heber Light and Power Company,	)	
31 South 100 West	)	
Heber City, UT 84032	)	
Respondent.	}	<b>CONSENT AGREEMENT</b>

Complainant, United States Environmental Protection Agency, Region 8, and Respondent, Heber Light & Power Company, by its undersigned representatives, hereby consent and agree as follows:

1. The United States Environmental Protection Agency (EPA), Region 8, initiated this proceeding pursuant to Section 15 of the Toxic Substances Control Act (TSCA), 15 U.S.C. Section 2614.
  
2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.
  
3. Respondent, stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Consent Agreement.
  
4. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

5. Respondent has demonstrated to the satisfaction of EPA that it has achieved compliance with the requirements that formed the basis of the Complaint.

6. Respondent, by executing this Consent Agreement, hereby certifies to EPA that it is now in compliance with each of the relevant provisions of Section 15 of TSCA, 15 U.S.C. Section 2614.

7. Pursuant to § 16(a)(2)(B), 15 U.S.C. § 2615(a)(2)(B), of TSCA, the nature of the violations, Respondent's agreement to perform a SEP and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of **three thousand four hundred dollars (\$3,400)**.

8. Respondent consents to the issuance of the Final Order hereinafter recited and consents for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph and to the performance of the Supplemental Environmental Project.

9. Within thirty (30) days of receiving a copy of this Consent Agreement and Final Order signed by the Regional Judicial Officer, Respondent shall submit a cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of **three thousand four hundred dollars (\$3,400)**, to:

U.S. EPA, Region 8  
(Regional Hearing Clerk)  
P.O. Box 360859M  
Pittsburgh, PA 15251

Respondent shall provide a copy of the check to:

Ms. Tina Artemis, 8RC	and	Brenda L. Morris, 8ENF-L
Regional Hearing Clerk		Legal Enforcement Program
U.S. EPA, Region 8		U.S. EPA, Region 8
999 18th Street, Suite 300		999 18th Street, Suite 300
Denver, Colorado 80202-2466		Denver, Colorado 80202-2466

Interest and late charges shall be paid as specified in paragraph 19 herein.

10. The penalty specified in Paragraph 7, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

11. Respondent shall undertake the following supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements. On or before July 1, 2004, and subsequent to the receipt of the Final Order, Respondent shall replace forty mercury vapor streetlights with high pressure dark sky compliant sodium fixtures and recycle the mercury bulbs. See, Exhibit A attached hereto and incorporated herein by reference.

12. The total expenditure for the SEP shall be not less than **ten thousand two hundred dollars (\$10,200)**, in accordance with the specifications set forth in Exhibit A. Respondent shall provide Complainant with documentation of the expenditures made in connection with the SEP by **July 1, 2004**.

13. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or in compliance with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

14. Whether Respondent has complied with the terms of this Consent Agreement and Order as herein required shall be the sole determination of EPA.

15. Respondent shall submit a SEP Completion Report to Brenda Morris and Tina Artemis, at the addresses listed in paragraph 9, above, by July 15, 2004. The SEP Report shall contain the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any operating problems encountered and the solutions thereto;
- c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Order; and
- e. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

16. Respondent agrees that failure to submit the SEP Completion Report required by above shall be deemed a violation of this Consent Agreement and Order and Respondent shall become liable for stipulated penalties in the amount of fifty dollars (\$50.00) per day.

17. Respondent shall maintain legible copies of documentation of the underlying data for any and all documents or reports submitted to EPA pursuant to this Consent Agreement for five years and Respondent shall provide the documentation of any such underlying data to EPA within seven days of a request for such information. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to EPA pursuant to this Consent Agreement, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing

the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

18. Respondent further agrees and consents that if Respondent fails to pay the penalty amount within 30 days of receipt of the Final Order, interest on the civil or stipulated penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the final order.

19. Any public statement, oral or written, made by Respondent making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of **TSCA**."

20. Nothing in this Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations. This Agreement does not release Respondent from criminal liability under any federal statute. Nor does this Agreement relieve Respondent of

liability relating to any imminent and substantial endangerment to public health or welfare or the environment. Notwithstanding the foregoing, this Consent Agreement constitutes a settlement and release by EPA of all claims for civil penalties pursuant to TSCA for the violations alleged in the Complaint.

21. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

22 Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date: 12/22/03

By: SIGNED  
Michael T. Risner, Director  
Legal Enforcement Program

Date: 12/22/03

By: Elisabeth Evans for/  
Martin Hestmark, Director  
Technical Enforcement Program

Date: 12/22/03

By: SIGNED  
Brenda L. Morris, Attorney  
Legal Enforcement Program

**HEBER LIGHT & POWER COMPANY,**  
**Respondent.**

Date: 12-19-03

By: SIGNED    Gen. Mgr.  
(Signature of authorized person/Title)

Craig Broussard  
Print Name of Signatory



## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **HEBER LIGHT AND POWER CO., DOCKET NO.: TSCA-08-2003-0005** was filed with the Regional Hearing Clerk on January 6, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda L. Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on January 6, 2004, to:

Joseph Dunbeck, Attorney  
P. O. Box 947  
Heber City, UT 84032

and

Craig Broussard, General Manager  
Heber Light and Power Co.  
31 South 100 West  
Heber City, UT 84032

January 6, 2004

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENT, PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JANUARY 6, 2004.**

